



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
07/957,598	10/06/92	WOOLFORD	

M 3616.69-US-0

KENT, C EXAMINER

35M1/0830
MERCHANT, GOULD, SMITH, EDELL, WELTER &
SCHMIDT
1000 NORWEST CENTER
ST. PAUL, MN 55101-2701

ART UNIT PAPER NUMBER

3504

DATE MAILED 08/30/93

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire _____ month(s), 30 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|--|--|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice re Patent Drawing, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, Form PTO-152. |
| 5. <input type="checkbox"/> Information on: How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____ |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-24 are pending in the application.
Of the above, claims _____ are withdrawn from consideration.
2. ☐ Claims _____ have been cancelled.
3. ☐ Claims _____ are allowed.
4. ☐ Claims _____ are rejected.
5. ☐ Claims _____ are objected to.
6. ☒ Claims 1-24 are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable. ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
12. ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Serial No. 07/957598

-2-

Art Unit 3504

The following office action is in response to patent examination application SN 07/957598 filed on 10/06/92.

RESTRICTION REQUIREMENT

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

I. Claims 1-16, drawn to a composite masonry block and a retaining wall, classified in Class 52, subclass 561.

II. Claims 17-22, drawn to a block mold assembly, classified in Class 249, subclass 52.

III. Claims 23-24, drawn to a method of using a block mold assembly, classified in Class 264, subclass 228.

The inventions are distinct, each from the other because of the following reasons:

Inventions of Group II and Group I are related as apparatus and product made. The inventions in this relationship are distinct if either or both of the following can be shown: (1) that the apparatus as claimed is not an obvious apparatus for making the product and the apparatus can be used for making a different product or (2) that the product as claimed can be made by another and materially different apparatus (M.P.E.P. § 806.05(g)). In this case the product as claimed can be made by another and materially different apparatus such a standard two-

Art Unit 3504

piece mold.

Inventions of Group III and Group II are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (M.P.E.P. § 806.05(e)). In this case the process as claimed can be practiced by another materially different apparatus such a block mold having a completely different shape.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification and because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

If the composite masonry block and wall of Group I are elected, a further restriction among species is proper and is required.

This application contains claims directed to the following patentably distinct species of the claimed invention: the species of composite masonry block of Fig. 1 and of Fig. 4.

Applicant is required under 35 U.S.C. § 121 to elect a

Art Unit 3504

single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claim 1 is generic.

Applicant is advised that a response to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 C.F.R. § 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. M.P.E.P. § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. § 103 of the other invention.

A telephone call was made to John J. Gresens on 08/19/93 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed.

Serial No. 07/957598

-5-

Art Unit 3504

Any inquiry concerning this communication should be directed to Christopher Kent at (703) 308-2497.



Christopher Kent
August 24, 1993



CARL D. FRIEDMAN
SUPERVISORY PATENT EXAMINER
GROUP 3500